

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

PINE TELEPHONE COMPANY, INC.,)	
an Oklahoma corporation, and)	
PINE CELLULAR PHONES, INC.,)	
an Oklahoma corporation,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-11-353-JHP
)	
ALCATEL-LUCENT USA, INC.,)	
a Delaware corporation,)	
f/k/a ALCATEL USA)	
MARKETING, INC.,)	
)	
Defendant.)	

FINDINGS AND RECOMMENDATION

This matter comes before the Court on Defendant's Motion for Attorney Fees (Docket Entry #312) and Plaintiffs' Motion for Attorneys' Fees (Docket Entry #317). These Motions were referred to the undersigned for the entry of Findings and a Recommendation by the presiding United States District Judge James H. Payne by order entered March 11, 2014.

On January 29, 2014, Judge Payne granted summary judgment in favor of Defendant and against Plaintiff on all claims asserted in this action. Thereafter, the Court granted Defendant's request to voluntarily dismiss its counterclaim against Plaintiff on February 13, 2014. On that same date, Judge Payne entered Judgment in the case. On March 12, 2014, Plaintiffs appealed the order granting Defendant's summary judgment motion.

On May 13, 2014, this Court conducted a hearing on the pending Motions. After consultation with counsel, however, it was agreed

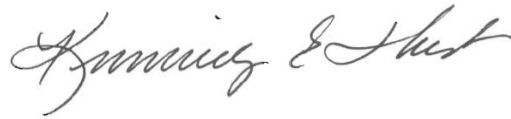
that the pending motions for attorneys' fees and expenses should be stayed for consideration pending the outcome of Plaintiffs' appeal, without any waiver to any claim or right to seek attorneys' fees and expenses in this case. Attorneys for each litigant agreed to the stay of their client's particular motion at the hearing and announced this agreement on the record.

This Court finds that it is in the best interest of the parties and in the interest of judicial economy to stay the referred motions pending the resolution in the Tenth Circuit Court of Appeals of Plaintiffs' appeal. Additionally, the Bills of Costs pending consideration before the Clerk of Court should also be stayed from further consideration at this time.

IT IS THEREFORE THE RECOMMENDATION OF THIS COURT that, in accordance with the stipulation and agreement of counsel, Defendant's Motion for Attorney Fees (Docket Entry #312) and Plaintiffs' Motion for Attorneys' Fees (Docket Entry #317) as well as the Bills of Costs currently before the Clerk of Court (Docket Entry Nos. 309 and 311) be **STAYED** from further consideration pending the outcome of Plaintiffs' appeal before the Tenth Circuit Court of Appeals. This Court further recommends that the stay be accomplished without waiving any right or claim to attorneys' fees which the parties may wish to assert now or in the future and that counsel be responsible for notifying the Court when and if the stay is no longer necessary.

The parties are herewith given fourteen (14) days from the date of the service of these Findings and Recommendation to file with the Clerk of the court any objections, with supporting brief. Failure to object to the Findings and Recommendation within fourteen (14) days will preclude appellate review of the judgment of the District Court based on such findings.

IT IS SO ORDERED this 13th day of May, 2014.

A handwritten signature in cursive script, reading "Kimberly E. West", positioned above a horizontal line.

KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE